

THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

PATRICK FINN and LIGHTHOUSE
MANAGEMENT GROUP, INC., as
Receiver for FIRST UNITED
FUNDING, LLC and COREY N.
JOHNSON,

Plaintiffs,

v.

COMPASS BANK and STERLING BANK,

Defendants.

CIVIL ACTION NO. H-11-1689

MEMORANDUM AND ORDER

Pending is Sterling Bank's Motion for Summary Judgment (Document No. 70), Compass Bank's Motion for Summary Judgment (Document No. 72), Receiver's Motion for Summary Judgment (Document No. 79), Sterling Bank's Motion to Preclude Expert Testimony of Patrick Finn and to Strike His Expert Report and Declaration (Document No. 87), Compass Bank's Motion to Preclude the Purported Expert Testimony of Mr. Patrick Finn, and to Strike His Purported Expert Report (Document No. 88), and Sterling Bank's request for a Daubert hearing on the motions (Document No. 101).

After carefully considering the motions for summary judgment, responses, replies, and applicable law, the Court concludes that genuine issues of material fact remain regarding (i) whether First United Funding, LLC ("First United"), in the course of committing pervasive fraud on some third parties, was also operating as a

Ponzi scheme, (ii) whether First United in its dealings with Defendants transferred its assets (as those terms are defined under the Texas Uniform Fraudulent Transfer Act) to Sterling Bank and Compass Bank, (iii) whether Sterling Bank and Compass Bank received the transfers in exchange for reasonably equivalent value, and (iv) whether certain of Plaintiffs' claims are barred by the statute of limitations. Accordingly, all motions for summary judgment are DENIED.

Defendant Sterling Bank's Request for Daubert Hearing (Document No. 101) is GRANTED, and hearing is SET on Sterling Bank's Motion to Preclude Expert Testimony of Patrick Finn and to Strike His Expert Report and Declaration (Document No. 87), and Compass Bank's Motion to Preclude the Purported Expert Testimony of Mr. Patrick Finn, and to Strike His Purported Expert Report (Document No. 88), as follows:

Date: October 11, 2013
Time: 3:00 p.m.

*U.S. Courthouse & Federal Building
Courtroom 11D
515 Rusk Avenue
Houston, Texas 77002*

Docket Call is RESET to **November 1, 2013**, at 4:00 p.m. The date for filing a Joint Pretrial Order is continued until October 21, 2013.

The Clerk will enter this Order, providing a correct copy to all parties of record.

SIGNED at Houston, Texas, on this 11th day of September, 2013.


EWIN WERLEIN, JR.
UNITED STATES DISTRICT JUDGE